VIRGINIA LAW REGISTER

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Legal Education.

Some of the most prominent law schools in the country decline now to allow a candidate for the degree of L. L. B. or B. L. to enter the class unless he has an academic degree. The provision it seems to us is a wise one, for whilst there is nothing to prevent any man from obtaining a license to practice law if he has the necessary certificate and stands the required examination, yet no man should possess the degree of "Bachelor of Laws" who is not a well educated man. It is true some of our greatest lawyers had not even the pretence of a college education. How much greater they might have been with that education, no man can tell; but they were at least self-educated and had their minds trained by the severe exercise of the mental toil they had to undergo to obtain the education they possessed. Their careers, if carefully studied, will show that the success they obtained was the result of a brilliant intellect working its way into prominence by fearful effort, or was gained by some fortuitous circumstance which brought the native talent to the fore.

But today the orator no longer leaps into recognition by one brilliant speech; the skillful cross-examination of a witness, or brilliant conduct of a criminal case, no longer makes the young lawyer famous at once. The world has been educated up to and away from the ability which the courthouse once alone seemed to have. The methods of practice have changed. The big fees are won now, as a general thing, not in, but outside of the courthouse. The lawyer has become the adviser, the counsellor; like the Chinese doctor, he is paid to keep his patient well and when a spell of illness comes, his reputation and pay suffer.

He needs, therefore, more than ever all the equipment which the most thorough education can give. He should of all things be a good—we are almost tempted to say a brilliant—Latin scholar. French he ought to know so as to read fluently. Span-

ish might now be one of his accomplishments in view of Porto Rico, the Phillipines and our prospective new state Cuba. German for the Western practitioner. But a course in mechanical and electrical engineering, in science and geology, would not go amiss. Lord Lyndhurst's acquaintance with mechanical science and applied mathematics, which enabled him to explain the intricate machinery of the bobbin frame after a single day's inspection at his client's factory, gave him at once prominence. Many other instances might be given. Academic degrees are now bestowed—more's the pity—in which a course in science or in modern languages is permited to take the place of Latin and Greek. So the candidate for the legal degree can have his Academic degree and training in what people are pleased to term practical subjects. But after all the successful lawyer must know human nature as well as letters and law—indeed, he ought to study it more than anything else. We do not believe a better foundation for the study of human nature can be found than in a thorough acquaintance with the classic authors of Greece and Rome. For that reason we would like to see a diploma in both languages made a requisite for the legal degree. Rather the training these languages and their literature give than the encyclopedic knowledge—or rather smattering—which too often now makes the modern Bachelor of Arts. Talent will tell in the long run, and as Dr. Johnson says: "Better that advantage should be had by talents than by chance."

The Duty of an Advocate.

The eternal—or what other "ernal" term you may choose to apply to it—question of whether a lawyer ought to accept employment in a case as to which he is doubtful of the right of his client, is again being put by some of the daily journals. It has been stated—whether truthfully or not we do not know—that certain persons in one of the counties of this State accused of a crime very unpopular at this time, though not in itself one of the most heinous known to the law—i. e., violation of the so-called local option laws of the State—could not find a lawyer in any one of the counties in the neighborhood who was willing to defend them. This information was given with a rather triumphant head line by one of the papers of the State. For the sake of the profession we most earnestly hope that this is not

true. Every man, no matter how grave his crime or how unpopular its nature, is entitled to have his side of his case fairly and honestly presented by counsel, and we have never believed that any lawyer had a right to refuse to defend a criminal unless there were personal reasons which prevented him from the acceptance of a retainer. It is the duty of an advocate to see justice done according to the law even to the meanest criminal, and no one asks more than this, and no lawyer with honest pride in his profession should hesitate to perform this, his sworn duty. The legal profession has always prided itself upon its high sense of duty and its absolute disregard of popular outcry. In the State of Virginia it has ever had that manful courage which made it stand firm in the exercise of its duty as a bulwark between the clamor of the mob and the threat of the loss of popular favor on one side and the righteousness of justice according to the law on the other. God forbid that the time should ever come in this Commonwealth when a lawyer will hesitate between his duty towards his client and his cause, and popularity—his own popularity.

Dr. Johnson's Opinion.

Lawyers are not as a general rule at a loss for argument, but we have seen many a young barrister embarrassed when he was taunted with taking what the public thought was the wrong side of a case. We do not believe that the argument on behalf of a lawyer representing his client, no matter what his case may be, has ever been stronger put than by "the great Cham" of literature. Boswell, in his "Journey to the Hebrides," gives the following excerpt from one of the Doctor's conversations on this subject:

"Sir," said Mr. Johnson, "a lawyer has no business with the justice or injustice of the cause which he undertakes, unless his client asks his opinion, and then he is bound to give it honestly. The justice or injustice of the cause is to be decided by the judge. Consider, sir, what is the purpose of courts of justice? It is that every man may have his cause fairly tried by men appointed to try causes. A lawyer is not to tell what he knows to be a lie; he is not to produce what he knows to be a false deed; but he

is not to usurp the province of the jury and of the judge, and determine what shall be the effect of evidence—what shall be the result of legal argument. As it rarely happens that a man is fit to plead his own cause, lawyers are a class of the community who, by study and experience, have acquired the art and power of arranging evidence and of applying to the points at issue what the law has settled. A lawyer is to do for his client all that his client might fairly do for himself, if he could. If, by a superiority of attention, of knowledge, of skill, and a better method of communication, he has the advantage of his adversary, it is an advantage to which he is entitled. There must always be some advantage on one side or the other; and it is better that advantage should be had by talents than by chance. If lawyers were to undertake no causes till they were sure they were just, a man might be precluded altogether from a trial of his claim, though, were it judicially examined, it might be found a very just claim."

Inaccurate Use of Language by the Courts.

In view of the frequent complaints from the supreme courts as to the carelessness and inaccuracy of counsel in the preparation of their causes for review, thereby adding unduly to the burdens of an already over worked and long suffering branch of the judiciary, it would seem not amiss to suggest that it might be of benefit to said careless and inaccurate counsel, if the courts themselves were to set an example in the matter of accuracy in the use of legal terms whose meaning is well settled, but which are so frequently used without discrimination and carelessly—to put no worse construction upon the matter—by the highest courts of the various states. For instance, while the meanings of the terms "objections" and "exceptions" are presumably well settled and well known to the bar and the bench, the instances are exceedingly common in which the court in its opinion uses these terms as synonymous, and, even in the course of the same opinion, applies first one and then the other of these terms in speaking of the same thing. In a case before the writer at the present moment, the learned supreme court says: "It is insisted that the court erred in overruling the ob-

jection * * * to the evidence * * *. We are precluded from passing upon this assignment upon its merits, as we fail to find from the record that any proper exception was made and acted upon in the court below. * * * The question cannot be raised in the charge only, and, no objection having been made to the evidence when offered, it must stand as not excepted to." Another instance of this is found in the use by the court of the terms "judgment rendered" or "rendition of judgment," when "judgment entered," or "entry of judgment" is meant, and *vice versa*. A little more care in these and other like instances would, it would seem, add to the value of the opinions of courts of last resort, and would also lighten greatly the labor of those desiring to cite the same, and of the writer whose duty it is to digest them. No inconsiderable portion of the time of the digester must now be given to ascertaining, not what the learned court in its opinion has said, but, from the context, what said court actually meant.